

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-3-E - ORDER NO. 2008-671
OCTOBER 3, 2008

| | | |
|---|---|---------------------|
| IN RE: Annual Review of Base Rates for Fuel Costs |) | ORDER APPROVING |
| of Duke Energy Carolinas, LLC |) | BASE RATES FOR FUEL |
| |) | COSTS AND ADOPTING |
| |) | SETTLEMENT |
| |) | AGREEMENT |

I. BACKGROUND

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the annual review of base rates for fuel costs of Duke Energy Carolinas, LLC (“Duke Energy Carolinas” or the “Company”). The procedure followed by the Commission is set forth in S.C. Code Ann. § 58-27-865 (Supp. 2007), which provides for annual hearings to allow the Commission and all interested parties to review the prudence of the fuel purchasing practices and policies of an electrical utility and for the Commission to determine if any adjustment in a utility’s fuel cost recovery mechanism is necessary and reasonable.

The parties before the Commission in this docket are Duke Energy Carolinas, the South Carolina Office of Regulatory Staff (“ORS”), and the South Carolina Energy Users Committee (“SCEUC”) (collectively, referred to as the “Parties” or sometimes individually as a “Party”). Prior to the hearing, the Parties caused a nine (9) page Settlement Agreement, dated August 19, 2008 (the “Settlement Agreement”), to be filed

with this Commission. The Settlement Agreement is attached as Order Exhibit 1 and is incorporated in and made part of this Order.

II. JURISDICTION OF THE COMMISSION

In accordance with S.C. Code Ann. § 58-27-140 (1) (Supp. 2007), the Commission may, upon petition, ascertain and fix just and reasonable standards, classifications, regulations, practices or service to be furnished, imposed, observed, and followed by any or all electrical utilities. Further, S.C. Code Ann. § 58-27-865(B) (Supp. 2007) states, in pertinent part, that “upon conducting public hearings in accordance with law, the [C]ommission shall direct each company to place in effect in its base rate an amount designed to recover, during the succeeding twelve months, the fuel costs determined by the [C]ommission to be appropriate for that period, adjusted for the over-recovery or under-recovery from the preceding twelve-month period.”

Consistent with the requirements of S.C. Code Ann. § 58-27-865(B) and the Commission’s Settlement Policies and Procedures, the Commission convened an evidentiary hearing to determine the reasonableness of the Parties’ settlement and whether acceptance of the settlement is just, fair and in the public interest.

III. DISCUSSION OF THE HEARING AND THE SETTLEMENT AGREEMENT

The public evidentiary hearing in this matter was held on August 26, 2008, before this Commission with the Honorable Elizabeth B. Fleming, Chairman, presiding. Representing the Parties were Catherine E. Heigel, Esquire, and Frank R. Ellerbe, III, Esquire, for the Company; Scott Elliott, Esquire, for SCEUC; and C. Lessie Hammonds, Esquire, and Jeffrey M. Nelson, Esquire, for ORS. At the hearing, the Parties presented

the Settlement Agreement (Order Exhibit 1) that was filed with the Commission on August 19, 2008. In the Settlement Agreement, which was admitted into the record as Hearing Exhibit 1, the Parties represented to the Commission that they had discussed the issues presented in this case and determined that each Party's interests and the public interest would be best served by settling all issues pending in this case in accordance with the terms and conditions contained in the Settlement Agreement.

Further, the Parties presented witnesses in support of the Settlement Agreement and various other matters related to the Company's base rates for fuel costs. Duke Energy Carolinas' witnesses Elliott Batson, Ronald A. Jones, and Thomas C. Geer presented direct testimony on behalf of the Company and sponsored composite Hearing Exhibits 2, 3, 4 and 5, respectively¹. Company witness John J. Roebel presented direct testimony on behalf of Duke Energy Carolinas. Finally, Company witness Jane L. McManeus (i) presented both direct and supplemental testimony on behalf of Duke Energy Carolinas, (ii) sponsored composite Hearing Exhibits 6 and 7, and (iii) sponsored the Settlement Agreement (Hearing Exhibit 1). The pre-filed testimony of all Company witnesses was accepted into the record without objection, and the exhibits attached to each witness' pre-filed testimony were marked as composite hearing exhibits as identified above and entered into the record of the case.

¹ Composite Hearing Exhibit 2 consists of the Direct Testimony Exhibits of M. Elliott Batson (Exhibits 1-4); Composite Hearing Exhibit 3 consists of the Direct Testimony Exhibits of Thomas C. Geer (Exhibits 1-2); Composite Hearing Exhibits 4 and 5 consist of the Direct Testimony Exhibits of Ronald A. Jones (redacted and non-redacted versions) (Exhibits 1-3); Composite Hearing Exhibits 6 and 7 consist of the Direct Testimony Exhibits of Jane L. McManeus (Exhibits 1-9) and Supplemental Testimony Exhibits of Jane L. McManeus (Supp. Exhibits 1-2), respectively; Composite Hearing Exhibit 8 consists of the Direct Testimony (includes the Report of the Audit Department) Exhibits of Robert A. Lawyer (Exhibits 1-7); and Composite Hearing Exhibit 9 consists of the Direct Testimony Exhibits of Michael Seaman-Huynh (Exhibits 1-11).

Company witness Elliott Batson testified regarding Duke Energy Carolinas' fossil fuel purchasing practices and costs for the period of July 2007 through May 2008 and described any related changes forthcoming in the projected period. Duke Energy Carolinas' witness John J. Roebel discussed the performance of the Company's fossil-fueled and hydroelectric generating facilities during the period of July 1, 2007, through May 31, 2008, and their operating efficiency during the test period. Mr. Roebel testified that Duke Energy Carolinas' generating system operated efficiently and reliably during the test period.

In his testimony, Company witness Ronald A. Jones discussed the performance of Duke Energy Carolinas' nuclear generation fleet during the test period.² He reported to the Commission that Duke Energy Carolinas achieved a net nuclear capacity factor, excluding reasonable outage time, of 102.74% for the current period, which is above the 92.5% set forth in S.C. Code Ann. § 58-27-865 (Supp. 2007). Company witness Thomas C. Geer provided further information regarding the Company's nuclear fuel purchasing practices and costs for the test period and described changes forthcoming in the 2008-2009 forecast period.

Next, Duke Energy Carolinas' witness Jane L. McManeus testified regarding the Company's procedures and accounting for fuel, actual fuel costs incurred since July 2007, actual environmental costs incurred for the period July 1, 2007 through May 31, 2008, the associated over/under-recovery of such costs, and the Company's computations

² On August 21, 2008, we granted the Motion of Duke Energy Carolinas to treat specific material filed in the present proceeding as confidential. Specifically, the Commission Ordered that certain materials contained in Duke Energy Carolinas' witness Ronald A. Jones' Testimony and Exhibit 3 should be treated as confidential.

of projected fuel and environmental costs. After adjusting for a net estimated under-recovery as of September 30, 2008, she described how the various components of fuel are included in the calculation of the Company's fuel expenses and explained the basis for estimated fuel costs during the billing period. Ms. McManeus explained that, in compliance with S. C. Code Ann. § 58-27-865 (A)(1), the Company calculated an environmental component for each of the Residential, General Service/Lighting and Industrial customer classes. The over/under recovery of environmental costs are allocated among the three customer classes based upon firm peak load. The resulting allocated costs are converted to the environmental component for each class expressed in cents per kWh and added to the fuel component. Next, after applying \$60 million of amounts over-collected through time from South Carolina retail customers for Catawba purchased capacity levelization (PCL) as partial collection of the Company's South Carolina jurisdictional un-recovered fuel balance, Ms. McManeus proposed combined fuel factors of 2.2539¢/kWh for Residential customers, 2.2501¢/kWh for General Service/Lighting customers and 2.2415¢/kWh for Industrial customers. In proposing these combined fuel factors, Ms. McManeus testified that such factors should result in the Company being neither under nor over-recovered in its fuel costs, including environmental costs, at the end of the billing period in September 2009.

Following the Company witnesses, ORS presented the direct testimony of Mr. Robert A. Lawyer, who also sponsored composite Hearing Exhibit 8. Specifically, Mr. Lawyer testified about the examination carried out by ORS as well as the agreed upon accounting adjustments reflected in the Settlement Agreement. With regard to the true-

up of over/under-recovered fuel costs, he testified that ORS analyzed the cumulative under-recovery of the Base Fuel Costs that Duke Energy Carolinas had incurred for the period July 2007 through May 2008 totaling (\$11,889,851). On behalf of ORS, Mr. Lawyer then added the projected under-recovery for the months of June through September 2008 to arrive at a projected cumulative under-recovery balance of (\$63,367,797) as of September 2008. Duke Energy Carolinas' cumulative under-recovery, per its testimony in this docket (Revised McManeus Exhibit 5), as of May 2008 totals (\$11,888,000), and as of September 2008, the cumulative under-recovery totals (\$63,365,000). Mr. Lawyer testified that the difference between Duke Energy Carolinas' and ORS' cumulative under-recovery as of actual May 2008 totaled (\$1,851). The difference between Duke Energy Carolinas' and ORS' cumulative under-recovery as of September 2008 totals (\$2,797). In the Settlement Agreement the Parties agreed to stipulate to ORS' calculations in this matter, as well as to the effect of applying the \$60,000,000 agreed upon by the Parties in the Settlement Agreement to offset the fuel increase, which resulted in a cumulative under-recovery total of (\$3,367,797) as of September 2008.

On behalf of ORS, Mr. Lawyer then analyzed the cumulative under-recovery of the environmental costs that Duke Energy Carolinas had incurred for the period July 2007 through May 2008 totaling (\$335,945). Mr. Lawyer explained that ORS added the projected over-recovery for the months of June through September 2008 to arrive at a projected cumulative over-recovery balance of \$3,497,356 as of September 2008. Duke Energy Carolinas' pre-filed testimony (McManeus Exhibit 7) in this docket lists the

cumulative environmental cost over-recovery total through September 2008 as \$3,497,000. The difference between Duke Energy Carolinas' and ORS' cumulative over-recovery balance as of September 2008 totals \$356. In the Settlement Agreement the Parties agreed to stipulate to ORS' calculations in this matter.

Michael L. Seaman-Huynh also presented direct testimony for ORS, sponsored composite Hearing Exhibit 9, and testified in support of the Settlement Agreement (Hearing Exhibit 1). Mr. Seaman-Huynh testified as to ORS' assessment of the reasonableness of Duke Energy Carolinas' costs and operations, concluding that the Company made reasonable efforts to maximize unit availability and minimize fuel costs. The pre-filed testimony of both Mr. Seaman-Huynh and Mr. Lawyer were accepted into the record without objection, and the exhibits attached to each witness' pre-filed testimony were also marked as the composite hearing exhibits identified above and entered into the record of the case.

In summary, through the testimony and exhibits presented to the Commission in this proceeding the Parties represent that settling all issues pending in this case in accordance with the terms and conditions contained in the Settlement Agreement is just, fair, and reasonable and in the public interest. The terms of the Settlement Agreement are summarized as follows:

- (a) Duke Energy Carolinas will apply \$60 million of amounts over-collected through time from South Carolina retail customers for Catawba purchased capacity levelization ("PCL") as partial collection of the Company's South Carolina jurisdictional un-recovered fuel balance. No return will be

calculated on the amount applied to the recovery of unbilled fuel. Duke Energy Carolinas estimates the PCL balance will be drawn down to zero prior to December 31, 2009. Consequently, Duke Energy Carolinas estimates that by December 31, 2009, an additional amount of money will be required from the Demand Side Management (“DSM”) balance owed to South Carolina retail customers. However, if in preparing its next proposed fuel rate in 2009 the Company estimates that at December 31, 2009, an over-recovered PCL balance will exist, Duke Energy Carolinas agrees to consider the estimated balance in its 2009 proposed fuel rate.

- (b) The Parties agree to accept all accounting adjustments as set forth in ORS witness Robert A. Lawyer’s pre-filed direct testimony.
- (c) The Parties agree that the fuel factors contained in Paragraph 8 of the Settlement Agreement represent the appropriate fuel costs, environmental costs, and combined projected fuel factors for Duke Energy Carolinas to charge for the period beginning with the first billing cycle in October 2008 through the last billing cycle of September 2009 by customer class as set forth in the following table:

| Class of Service | SC Fuel Cost from Supplemental Exhibit 1 (¢/kWh) | SC Environmental Costs (Over)/Under Recovery from Exhibit 7 (¢/kWh) | SC Environmental Costs from Exhibit 8 (¢/kWh) | Combined Projected Fuel Factor (¢/kWh) |
|------------------|--|---|---|--|
| Residential | 2.2317 | -0.0217 | 0.0439 | 2.2539 |
| General/Lighting | 2.2317 | -0.0168 | 0.0352 | 2.2501 |
| Industrial | 2.2317 | -0.0114 | 0.0212 | 2.2415 |

- (d) The Parties agree that the fuel factors set forth in Paragraph 8 of the Settlement Agreement were calculated consistent with S.C. Code Ann. § 58-27-865 (Supp. 2007), and further that fuel costs for periods beginning on June 1, 2008, and thereafter shall be open issues for determination by the Commission in future fuel cost proceedings held under the procedure and criteria established in S.C. Code Ann. § 58-27-865 (Supp. 2007).
- (e) The Parties agree that to keep the Parties and Duke Energy Carolinas' customers informed of the over/under-recovery balances related to fuel costs and of Duke Energy Carolinas' commercially reasonable efforts to forecast the expected fuel factors to be set at its next annual fuel proceeding, the Company will provide SCEUC, ORS, and where applicable, its customers with (i) copies of the monthly fuel recovery reports currently filed with the Commission and ORS; and (ii) a quarterly forecast of the expected fuel factors to be set at its next annual fuel proceeding.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having heard the testimony of the witnesses and representations of counsel and after careful review of the Settlement Agreement, the Commission finds that approval of the terms set out in the Settlement Agreement is consistent with the standards for fuel review proceedings conducted pursuant to S.C. Code Ann. § 58-27-865 (Supp. 2007) and is supported by the substantial evidence in the record. The Settlement Agreement's terms allow recovery in a precise and prompt manner while assuring public confidence and

minimizing abrupt changes in charges to customers. As such, approval of the Settlement Agreement is in the public interest as a reasonable resolution of the issues in this case. Additionally, we find that the methodology for determining the environmental cost factor used by Duke Energy Carolinas in this proceeding, while not binding in future proceedings, is consistent with the statutory requirements of S.C. Code Ann. § 58-27-865 (Supp. 2007) and is just and reasonable. We further find that the Settlement Agreement's terms (i) provide stabilization to the fuel factor, (ii) minimize fluctuations for the near future, and (iii) do not appear to inhibit economic development in South Carolina. Additionally, the Commission finds and concludes that the Settlement Agreement affords the Parties the opportunity to review costs and operational data in succeeding fuel review proceedings conducted pursuant to S.C. Code Ann. §58-27-865 (Supp. 2007).

IT IS THEREFORE ORDERED THAT:

1. The Settlement Agreement attached hereto as Order Exhibit 1 and the pre-filed direct testimony of ORS witnesses Robert A. Lawyer and Michael L. Seaman-Huynh, and Duke Energy Carolinas' witnesses Elliott Batson, John J. Roebel, Ronald A. Jones, Thomas C. Geer and Jane L. McManeus, and the supplemental testimony of Jane L. McManeus and Michael Seaman-Huynh along with their respective exhibits entered into evidence as composite Hearing Exhibits 2-7, are accepted into the record in the above-captioned case without objection. Further, the oral testimony of the above witnesses presented at the hearing on August 26, 2008, is also incorporated into the record of this case.

2. The Settlement Agreement is incorporated into this present Order by reference and attachment and is found to be a reasonable resolution of the issues in this case and to be in the public interest.

3. The fuel purchasing practices, plant operations, and fuel inventory management of Duke Energy Carolinas are reasonable and prudent.

4. Duke Energy Carolinas shall set its fuel factor (excluding environmental costs) at 2.2317 cents per kWh effective for bills rendered on and after the first billing cycle of October 2008 and continuing through the billing month of September 2009.

5. Duke Energy Carolinas shall set its environmental cost component factor at 0.0222 cents per kWh for the Residential customer class, 0.0184 cents per kWh for the General Service/Lighting customer class, and 0.0098 cents per kWh for the Industrial customer class for bills rendered on or after the first billing cycle of October 2008 and continuing through the billing month of September 2009.

6. Duke Energy Carolinas shall set its total fuel factor, including the environmental cost component factor, at 2.2539 cents per kWh for the Residential customer class, 2.2501 cents per kWh for the General Service/Lighting customer class, and 2.2415 cents per kWh for the Industrial customer class for bills rendered on or after the first billing cycle of October 2008 and continuing through the billing month of September 2009.

7. The Parties shall abide by all terms of the Settlement Agreement.

8. Duke Energy Carolinas shall transfer \$60 million of the Catawba PCL balance to the deferred fuel account to accelerate the return to customers of the PCL

balance currently being returned to customers pursuant to a rate decrement rider approved in Order No. 96-337. No return will be calculated on the amount applied to the recovery of unbilled fuel.

9. Duke Energy Carolinas is authorized to continue the current reduction in rates reflected in the partial true-ups to the PCL liability balance, as previously approved by the Commission. Duke Energy Carolinas is also authorized to offset the Demand Side Management deferred cost liability balance with the PCL rate decrement after first reducing the Catawba PCL liability balance to zero.

10. Duke Energy Carolinas shall file an original of the South Carolina Retail Adjustment for Fuel Cost and all other retail Tariffs within ten (10) days of receipt of this Order with the Commission and ORS.

11. Duke Energy Carolinas shall comply with the notice requirements set forth in S.C. Code Ann. §58-27-865.

12. Duke Energy Carolinas shall continue to file the monthly reports as previously required.

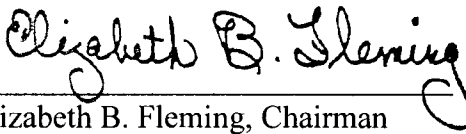
13. Duke Energy Carolinas shall account monthly to the Commission and ORS for the differences between the recovery of fuel costs through base rates and the actual fuel costs experienced by booking the difference to unbilled revenues with a corresponding deferred debit or credit. ORS shall monitor the cumulative recovery account.

14. Duke Energy Carolinas shall submit monthly reports to the Commission and ORS of fuel costs and scheduled and unscheduled outages of generating units with a capacity of 100 MW or greater.

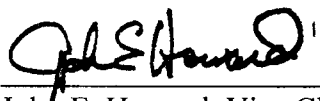
15. Duke Energy Carolinas shall inform the Parties on a quarterly basis as to the fuel factors the Company expects to be set at the next annual fuel cost review proceeding.

16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


John E. Howard, Vice Chairman
(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-3-E
August 19, 2008

IN RE:

| | | |
|--|---|-----------------------------|
| Annual Review of Base Rates for Fuel Costs |) | |
| for Duke Energy Carolinas, LLC |) | SETTLEMENT AGREEMENT |
| |) | |

This Settlement Agreement is made by and among the Office of Regulatory Staff of South Carolina ("ORS"), South Carolina Energy Users Committee ("SCEUC"), and Duke Energy Carolinas, LLC ("Duke Energy Carolinas") (collectively referred to as the "Parties" or sometimes individually as a "Party").

WHEREAS, the above-captioned proceeding has been established by the Public Service Commission of South Carolina ("Commission") pursuant to the procedure in S.C. Code Ann. §58-27-865 (Supp. 2007), and the Parties to this Settlement Agreement are parties of record in the above-captioned docket. There are no other parties of record in the above-captioned proceeding;

WHEREAS, the Parties have engaged in discussions to determine if a settlement of the issues would be in their best interests;

WHEREAS, following those discussions the Parties have each determined that their interests and the public interest would be best served by settling all issues pending in the above-captioned case under the terms and conditions set forth below:

1. As a compromise to positions advanced by Duke Energy Carolinas, ORS, and SCEUC, all Parties agree to the proposal set out immediately below, and this proposal is hereby adopted, accepted, and acknowledged as the agreement of the Parties.

2. The Parties agree to stipulate into the record before the Commission the pre-filed testimony and exhibits of ORS witnesses Michael L. Seaman-Huynh and Robert A. Lawyer, without objection or cross-examination by the Parties. The Parties also agree to stipulate into the record before the Commission the redacted and unredacted pre-filed direct testimony and exhibits of Duke Energy Carolinas' Witness Ronald A. Jones, and the pre-filed direct testimony and exhibits of Witnesses M. Elliott Batson, John J. Roedel, Thomas C. Geer and Jane L. McMancus, without objection or cross-examination by the Parties. The Parties agree that no other evidence will be offered in the proceeding by the Parties other than the stipulated testimony and exhibits, the supplemental testimony of Duke Energy Carolinas Witness Jane L. McMancus and ORS witness Michael Seaman-Huynh supporting the Parties' settlement, and this Settlement Agreement. The Parties agree to present all witnesses at the scheduled hearing in this matter.

3. ORS's review of Duke Energy Carolinas' operation of its generating facilities resulted in the conclusion that Duke Energy Carolinas has made reasonable efforts to maximize unit availability and minimize fuel costs. Additionally, ORS has determined that Duke Energy Carolinas took appropriate corrective action with respect to any outages that occurred during the review period.

4. Duke Energy Carolinas will apply \$60 million of amounts over-collected through time from South Carolina retail customers for Catawba purchased capacity levelization (PCL) as partial collection of the Company's South Carolina jurisdictional un-recovered fuel balance. No return will be calculated on the amount applied to the recovery of unbilled fuel. Duke Energy Carolinas estimates the PCL balance will be drawn down to zero prior to December 31, 2009. Consequently, Duke Energy Carolinas estimates that by December 31, 2009, an additional \$8 million will be required from the Demand Side Management ("DSM") balance owed to South Carolina retail customers. However, if in

preparing its next proposed fuel rate in 2009 the Company estimates that at December 31, 2009 an over-recovered PCL balance will exist, Duke Energy Carolinas agrees to consider the estimated balance in its 2009 proposed fuel rate. The application of the PCL and DSM over-collections to reduce the fuel rate is further described in the supplemental testimony and exhibits of Company Witness McMancus.

5. ORS analyzed the cumulative under-recovery of the Base Fuel Costs that Duke Energy Carolinas had incurred for the period July 2007 through May 2008 totaling (\$11,889,851). ORS added the projected under-recovery for the months of June through September 2008 to arrive at a cumulative under-recovery balance of (\$63,367,797) as of September 2008. Duke Energy Carolinas's cumulative under-recovery, per its testimony in this docket (Revised McMancus Exhibit 5), as of May 2008 totals (\$11,888,000), and as of September 2008, the cumulative under-recovery totals (\$63,365,000). The difference between Duke Energy Carolinas's and ORS' cumulative under-recovery as of actual May 2008 totaled (\$1,851). The difference between Duke's and ORS' cumulative under-recovery as of September 2008 totals (\$2,797). After applying the \$60,000,000 agreed upon by the Parties in Paragraph 4 herein, to offset the fuel increase, the parties agree to a resulting cumulative under-recovery total of (\$3,367,797) as of September 2008.

6. ORS analyzed the cumulative under-recovery of the environmental costs that Duke Energy Carolinas had incurred for the period July 2007 through May 2008 totaling (\$335,945). ORS added the projected over-recovery for the months of June through September 2008 to arrive at a cumulative over-recovery balance of \$3,497,356 as of September 2008. Duke Energy Carolinas's pre-filed testimony (McMancus Exhibit 7) in this docket lists the cumulative environmental cost over-recovery total through September 2008 as \$3,497,000. The difference between Duke Energy Carolinas's and ORS's cumulative over-recovery balance as of September 2008 totaled \$356.

7. The parties agree to accept all accounting adjustments as put forth in ORS witness Lawyer's pre-filed direct testimony which provides that as of May 2008, based on a Base Fuel Cost

component of (\$11,889,851) and an Environmental Cost component of (\$335,945), the combined cumulative under-recovery balance totals (\$12,225,796). As of September 2008, as a result of the \$60 million provided for in Paragraph 4 herein, based on a Base Fuel Cost component of (\$3,367,797) and an Environmental Cost component of \$3,497,356, the parties agree to a resultant cumulative over-recovery balance totals \$129,559.

8. The Parties agree that the fuel factors contained in the pre-filed direct testimony and exhibits of Duke Energy Carolinas' Witness Jane L. McManeus, as adjusted by the supplemental testimony and exhibits of Ms. McManeus, represent the appropriate fuel costs, environmental costs, and combined projected fuel factors for Duke Energy Carolinas to charge for the period beginning with the first billing cycle in October 2008 through the last billing cycle of September 2009 by customer class as set forth in the table below:

| Class of Service | SC Fuel Cost from Supplemental Exhibit 1 (¢/kWh) | SC Environmental Costs (Over)/Under Recovery from Exhibit 7 (¢/kWh) | SC Environmental Costs from Exhibit 8 (¢/kWh) | Combined Projected Fuel Factor (¢/kWh) |
|------------------|--|---|---|--|
| Residential | 2.2317 | -0.0217 | 0.0439 | 2.2539 |
| General/Lighting | 2.2317 | -0.0168 | 0.0352 | 2.2501 |
| Industrial | 2.2317 | -0.0114 | 0.0212 | 2.2415 |

9. The Parties agree that the fuel factors as set forth in Paragraph 8 above are consistent with S.C. Code Ann. §58-27-865.

10. The Parties agree that in an effort to keep the Parties and Duke Energy Carolinas' customers informed of the over/under recovery balances related to fuel costs and of Duke Energy Carolinas' commercially reasonable efforts to forecast the expected fuel factor to be set at its next annual fuel proceeding, Duke Energy Carolinas will provide to SCEUC, ORS, and where applicable, its customers the following information:

- (a) copies of the monthly fuel recovery reports currently filed with the Commission and ORS;
and
- (b) a quarterly forecast beginning November 30, 2008 of the expected fuel factor to be set at its next annual fuel proceeding based upon Duke Energy Carolinas' historical over/under recovery to date and Duke Energy Carolinas' forecast of prices for uranium, natural gas, coal, oil and other fuel required for generation of electricity. Duke Energy Carolinas will use commercially reasonable efforts in making these forecasts. To the extent that the forecast data required hereunder is confidential, any party or customer that wants forecasted fuel data will have to sign a non-disclosure agreement agreeing to protect the data from public disclosure and to only disclose it to employees or agents with a need to be aware of this information.

11. The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution of all issues currently pending in the above-captioned proceeding. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

12. The Parties agree that any and all challenges to Duke Energy Carolinas' historical fuel costs and revenues for the period ending May 2008 are not subject to further review; however, fuel costs and revenues for periods beginning June 2008 and thereafter shall be open issues in future proceedings and will continue to be trucked-up against actual costs in such proceedings held under S.C. Code Ann. §58-27-865 (Supp. 2007).

13. This written Settlement Agreement contains the complete agreement of the Parties. The Parties agree that by signing this Settlement Agreement, it will not constrain, inhibit or impair their arguments or positions held in future proceedings. If the Commission declines to approve the agreement in its entirety, then any Party desiring to do so may withdraw from the agreement without

penalty, within 3 days of receiving notice of the decision, by providing written notice of withdrawal via electronic mail to all parties in that time period.

14. This agreement shall be effective upon execution of the Parties and shall be interpreted according to South Carolina law.

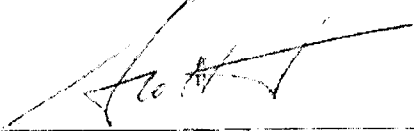
15. This Settlement Agreement in no way constitutes a waiver or acceptance of the position of any Party concerning the requirements of S.C. Code Ann. §58-27-865 (Supp. 2007) in any future proceeding. This Settlement Agreement in no way precludes any party herein from advocating an alternative methodology under S.C. Code Ann. §58-27-865 (Supp. 2007) in any future proceeding.

16. This Settlement Agreement shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capacities), subsidiaries, affiliates, parent corporations, if any, joint ventures, heirs, executors, administrators, trustees, and attorneys.

17. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

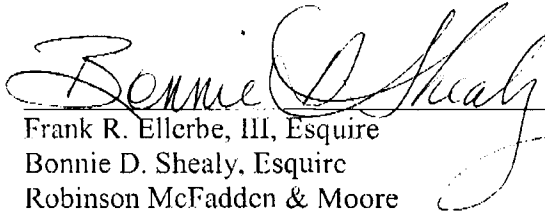
(Signature Pages Follow)

Representing and binding South Carolina Energy Users Committee:

A handwritten signature in black ink, appearing to read "Scott Elliott", is written over a horizontal line.

Scott Elliott, Esquire
Elliott & Elliott, P.A.
721 Olive Street Columbia, SC 29205
Phone: (803) 771-0555
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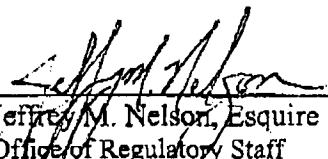
Representing and binding Duke Energy Carolinas, LLC:

A handwritten signature in cursive script, reading "Bonnie D. Shealy". The signature is written in dark ink and is positioned above a horizontal line.

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Bonnie D. Shealy, Esquire
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